

**Charter Change Meeting for New Castle City took place on July 21, 2011 at 1:00 p.m. in the City of New Castle's Town Hall.**

**Members Present:**

Dr. Genevieve Miller, Chair

James Vincent

Dan Losco, City Solicitor

**Absent**

John Houben

Josephine Moore

Meeting called to order at 1:09 p.m.

Dr. Miller asked if in Chapter 15 the Committee had recommended that the liens on a property be extended from two years to three. Mr. Losco stated that it has been extended, but that the consensus was that the lien should stay in place until satisfied.

Section 20: Mr. Losco stated that the first paragraph of Section 20 was saying the City's Collector of Taxes could set up their own sale, and auctioning of properties. He feels that the whole first part can come out, as the City would use the second option in the Code of going through Superior Court.

There are sections we would want to keep, such as keeping the ability to sue in small claims (J.P.) court, we can sue to collect a judgment for smaller amounts.

Process of monitions: Our charter created a two tiered process; first the City has to file a praecipe with the Prothonotary in Superior Court. Then send certified notice to the property owner, then if they do not pay the taxes the City must send another praecipe to the Prothonotary. There is no need for two praecipe, as they are instructions for the Court to do something. The first one is not instructing the Court to do anything. It is an extra step that is not needed.

In the description of the monitions order, the Charter talks about a time period for noticing and posting a property. The example in the Charter is not consistent with the State. Mr. Losco said he would draft a change that would incorporate the Superior Court ruling.

Section 21: Collector of Taxes must deliver the taxes the first Monday of every taxes, and "oftener" if required by Council. This line should come out, as this is not the way business is done.

This chapter says the Collector of Taxes is liable on his bond for the performance of his duties. The Collector of Taxes should sign a promissory bond. Mr. Losco was not sure if this is a practice or if that is something that should be done.

On the first Tuesday in May, Council shall find out who is delinquent, and shall direct Collector of taxes to proceed with collection by legal proceedings. In effect that is saying anyone who is even a dollar delinquent would have to be sued. Mr. Losco suggested making that discretionary.

If it is mandatory, you would end up having to sell a three hundred thousand house for a hundred dollar tax delinquency.

Dr. Miller said that it is better for the Charter to mandate this type of thing. Elected generally officials do not want to have to make these types of decisions, as a political issue. If foreclosure procedures are mandated by the Charter, it makes it easier for Council to proceed. The procedure to foreclose can be updated, but should not necessarily be at the discretion of Council.

Mr. Vincent questioned if the City Solicitor could advise City regarding foreclosing or attaching wages for a tax debt, as the Charter reads that “it shall be the duty of the City Solicitor to furnish at all times such legal advice and assistance to the collector of taxes in the collection of taxes as may be necessary.”

Mr Losco stated that his capacity is to advise and help in proceeding with litigation, and when a decision like that has been made, not necessarily in making the decision.

Mr. Losco suggested that the Charter could read the collector of taxes shall proceed to the collection of same by legal proceedings or otherwise as the collector may determine. That could include collection letters, a collection agency, up to and including legal proceedings.

Section 22: Capitalize Treasurer; and gender neutral terms need to be inserted. Mr. Losco asked if our current Treasurer is bonded, and if other signers of City checks are also bonded.

Where the Charter reads “Treasurer makes monthly report, keep account of receipts, and delivers yearly audit to Mayor of the City” Mr. Losco asked if Committee wanted to add, “and to all Council members.”

In the last paragraph, Committee recommends changing “*City Administrator or City Finance Coordinator to serve as Acting Treasurer during the absence of the Treasurer from the City or while the Treasurer shall be prevented by sickness from performing the duties of the office of Treasurer and the City Clerk, upon receiving written notice*” to take out the wording requiring written notice, using similar wording as in Section 11, regarding the Mayor.

Section 23: Mr. Vincent asked if it is legal for the City to repair and replace curbs and charge the residents.

Mr. Losco stated that in most City Charters, the curbs and sidewalks that abut a property are the property owners responsibility, for liability reasons. If a curb or sidewalk is a safety hazard the City can send a notice to the property owner, or have the work done and bill the property owner.

If the City bills the owner for repairs they have thirty days to pay, if they do not, the only option the city has is to bring suit. Mr. Losco stated he would much rather have it go on as a lien. To take a matter like this to court could take a long time. If, in the meantime the property owner decided to sell their house, the City could be out the repair cost. If a lien is not placed on the property, it would not show up during settlement of the property.

Mr. Vincent questioned whether a resident could replace curbs at their discretion. Mr. Losco said yes, and noted that many times this becomes an issue when a person renews homeowners

insurance. If the company sees a problem with the curbs or sidewalk they might tell the property owner that they need to repair or replace or their policy will be cancelled. At that point it would be the property owner that would need to have the work done, and it would be their responsibility to pay for it.

Section 24: Mr. Losco suggested making the Charter more clear in wording concerning putting up street signs. And the Charter seems to contradict itself, in one part saying Council may open a road, and in another part saying it cannot open a road without signatures. These sections may be able to be combined.

Section 25: Where the Charter refers to the condemnation process, Mr. Losco stated that there is a provision in the State law that speaks to this, so it might be beneficial to defer to the State law.

Last paragraph deals with paper roads, Mr. Losco noted that there is a state procedure for this process. The Charter could incorporate the process used under State law. Mr. Losco will get the Code section to reference.

Vacating a Street, there is a State procedure for this that the City could reference in the code. Our Charter does not stipulate who would get the vacated property. In the State, the adjoining properties would share the land.

Section 26: Where Charter states that all roads should be kept up and repaired, we should add and regulated, this would be were Council could insert wording regulating addition of signs, marking curbs as no parking etc.

In the code where it refers to New Castle County roads, wording needs to be replaced with State Road. DelDOT owns all the roads.

Where the Code refers to Levy Court of New Castle County, it needs to be replaced by County Council.

Mr. Losco made a motion to adjourn

Meeting adjourned at 2:00 p.m.

Respectfully Submitted,

*Kim Burgmuller*